

**TENNESSEE BOARD OF PHARMACY
NOVEMBER 19 - 20, 2002
ROOM 160 - DAVY CROCKETT TOWER
NASHVILLE, TENNESSEE**

BOARD MEMBERS PRESENT:

Alan Corley, President
Forrest Parmley, Vice President
Barbara McAndrew, Public Member
Robert Shutt, Member
Reggie Dilliard, Member
Julie Frazier, Member
Sheila Mitchell, Member

STAFF PRESENT:

Kendall Lynch, Director
Alison Zane, Legal Counsel
Martha Agee, Board Administrator
John Beauregard, Pharmacist Investigator
Terrence Cannada, Pharmacist Investigator
Harry Fuqua, Pharmacist Investigator
Richard Hadden, Pharmacist Investigator
Ralph Staton, Pharmacist Investigator

The Tennessee Board of Pharmacy convened on Tuesday, November 19, 2002, in Room 160 of the Davy Crockett Tower, 500 James Robertson Parkway, Nashville, Tennessee. A quorum of the members being present, the meeting was called to order at 9:00 a.m. CST by Dr. Alan Corley, President.

Director Kendall Lynch welcomed three (3) fourth-year students who are currently completing their rotations. Director Lynch also recognized Attorney, Wayne Pugh.

RECIPROCAL EXAMINATION

The Jurisprudence Examination was administered to thirty-two (32) applicants, beginning at 10:00 a.m. CST on Tuesday, November 19, 2002. The examination was administered by Pharmacy Board Investigators. All of the applicants successfully completed the examination, were interviewed by the Board and approved for licensure.

SCORE TRANSFER/NAPLEX JURISPRUDENCE EXAMINATION

The Jurisprudence Examination was administered to one (1) Score Transfer examinee, one (1) NAPLEX examinee, and two (2) reinstatement examinees in Room 640 of the Davy Crockett Tower at 10:00 a.m. CST on Tuesday, November 19, 2002. The examination was administered

by the Pharmacy Board Investigators. All of the applicants successfully completed the Jurisprudence Exam.

APPROVAL OF THE MINUTES

The **minutes of the September 24 – 25, 2002** board meeting were presented and reviewed by the Board. Dr. Robert Shutt motioned to **approve** the minutes, seconded by Dr. Forrest Parmley. All were in favor and the motion carried.

ELECTION OF OFFICERS

Dr. Alan Corley asked for nominations for the position of President. Mrs. Barbara McAndrew nominated **Dr. Forrest Parmley for President** for the term beginning January 1, 2003 to December 31, 2003. Dr. Robert Shutt seconded the motion. All were in favor and the motion carried.

Dr. Alan Corley asked for nominations for the position of Vice President. Dr. Julie Frazier nominated **Dr. Robert Shutt for Vice President** for the term beginning January 1, 2003 to December 31, 2003. Dr. Sheila Mitchell seconded the motion. All were in favor and the motion carried.

WAIVERS

FREDERIC EALLONARDO, DPH
P. O. Box 1659
Hobb Sound, FL 33475

Dr. Frederic Eallonardo is requesting a waiver of Rule 1140-1-.07 (3) (c) (3) relevant to the NAPLEX examination. Dr. Eallonardo's license had been placed in an "invalid" status and he did not receive notification regarding the inactive/retired status. Dr. Robert Shutt motioned to **grant** the waiver, seconded by Dr. Reggie Dilliard. All were in favor and the motion carried.

DENNIS HUBBARD, DPH
P. O. Box 487
Pound, VA 24279

Dr. Dennis Hubbard is requesting a waiver of Rule 1140-1-.07 (3) (c) (3) relevant to the NAPLEX examination. Dr. Hubbard has been practicing in Virginia since 1983 and was unaware of his pharmacist license being in “invalid” status. Dr. Hubbard did not receive notification of the change in the Rule. Dr. Forrest Parmley motioned to **grant** the waiver; seconded by Dr. Julie Frazier. All were in favor and the motion carried.

JOHN HUMPHREYS, DPH
8176 Poplar Bend Drive
Harrison, TN 37341

Dr. John Humphreys is requesting a waiver of Rule 1140-1-.07 (3) (c) (3), regarding the NAPLEX examination. In 1990, Dr. Humphreys was forced to retire due to a medical condition. Dr. Robert Shutt motioned to **grant the waiver with the stipulation that Dr. Humphreys obtain thirty (30) hours of Live ACPE hours within the next twelve (12) months**; seconded by Dr. Shelia Mitchell. All were in favor and the motion carried.

JOYCE FOLSE, DPH
8543 Washington Way
Germantown, TN 38139

Dr. Joyce Folse is requesting a waiver of Rule 1140-1-.10 relevant to late fees being assessed for the delinquent submission of her pharmacist license renewal. Dr. Folse’s license expired July 31, 2002 and a change of address was not submitted until November 4, 2002. Dr. Forrest Parmley motioned to deny the request. **Ms. Alison Zane, board counsel, advised the Board had no authority in which to grant the waiver.** Dr. Parmley withdrew his motion. Director Kendall Lynch will advise Dr. Folse that there is no statutory authority in which to grant the waiver for late fees.

**CODY WOODALL, DPH – FORMAL HEARING
TULLAHOMA, TN**

A copy of the court reporter's transcript is attached and will become an official document to the minutes.

**BILLY R. COLLINS, DPH – FORMAL HEARING
MORRISTOWN, TN**

Dr. Billy R. Collins was not in attendance for the formal hearing. Mr. James Bell, attorney for Dr. Collins appeared on behalf of his client to petition the Board for a Continuance.

Administrative Law Judge Ron Wilson presided over the formal hearing, accompanied by Ms. Beverly Cannon, court reporter. Mr. Bell advised Administrative Law Judge Wilson and the members of the Board that Dr. Collins is not a danger to the public nor would he be conducting any criminal activity. Dr. Forrest Parmley stated to grant Mr. Bell a continuance. Dr. Julie Frazier stated Dr. Collins needs proper representation. The suspension of license is to remain in place or unless otherwise stated. There was no objection. A **Continuance was granted** by Judge Wilson for Thursday, December 19, 2002 at 8:00 a.m. CST.

CONSENT ORDERS

KEVIN LEE BROOKS #11666
2506 David Ross Drive
Columbia, TN 38501

Ms. Alison Zane presented a Consent Order for Dr. Kevin Brooks whereas he acknowledged being chemical dependent. Dr. Robert Shutt motioned to **accept** the Consent Order; seconded by Dr. Julie Frazier. All were in favor and the motion carried.

DAVID W. BROWN, #6766
2925 Palace Place
Murfreesboro, TN 37129

Ms. Alison Zane presented a Consent Order for Dr. David Brown whereas he acknowledged

being chemical dependent. Dr. Robert Shutt motioned to **accept** the Consent Order; seconded by Dr. Julie Frazier. All were in favor and the motion carried.

TRUDY JONES, #7383
925 Beacon Light Drive
Eads, TN 38028

Ms. Alison Zane presented a Consent Order for Dr. Trudy Jones whereas during a routine inspection at Walgreen Pharmacy #4016, 2879 Germantown Road, Memphis, Tennessee, the inspector noticed that thirty-four (34) out of the eighty-four (84) Baker cells contained incorrect dates or no dates on the container. Dr. Jones was assessed a civil penalty of \$100. Dr. Robert Shutt motioned to **accept** the Consent Order; seconded by Dr. Julie Frazier. All were in favor and the motion carried.

KAREN MELINDA LONG, #9874
41 Norm Drive
Greeneville, TN 37743

Legal counsel, Ms. Alison Zane, presented a Consent Order for Dr. Karen Long for revocation of license due to chemical dependency. Dr. Sheila Mitchell motioned to **accept** the Consent Order; seconded by Dr. Julie Frazier. All were in favor and the motion carried.

MARK PARRIS, #8124
4149 East First Street
Blue Ridge, GA 30513

Ms. Alison Zane, legal counsel, presented a Consent Order for Dr. Mark Parris whereas on or about February 11, 2000, Dr. Parris pled guilty to the charge of “failure to keep and maintain records of a controlled substance distribution” and received a sentence of five (5) years of criminal probation. The Georgia Board of Pharmacy suspended Dr. Parris’ license to practice pharmacy for three (3) months and then placed Dr. Parris on probation for a period of five (5) years. Dr. Parris’ license is currently expired and must personally appear before the Board

Tennessee Board of Pharmacy
November 19 – 20, 2002

should he decide to reactivate, reinstate or renew his Tennessee pharmacist license. Dr. Julie Frazier motioned to **accept** the Consent Order; seconded by Dr. Reggie Dilliard. All were in favor and the motion carried.

J. HAROLD SHALETT, #2187
3687 S. Quail Lane
Chattanooga, TN 37415

Ms. Alison Zane presented a Consent Order whereas Dr. J. Harold Shalett pled guilty to four (4) counts of Medicaid Fraud on or about June 29, 2001 and was sentenced to one (1) year of unsupervised probation. Dr. Shalett was ordered to pay the State of Tennessee eleven thousand dollars (\$11,000) for fraudulent billing and misrepresentation of services. Dr. Shalett's license has been suspended indefinitely. Dr. Robert Shutt motioned to **accept** the Consent Order; seconded by Dr. Reggie Dilliard. All were in favor and the motion carried.

LAKESIDE PHARMACY
License #278
4632 Highway 58 North
Chattanooga, TN 37416

Legal counsel, Ms. Alison Zane presented a Consent Order whereas Lakeside Pharmacy was in violation of the technician ratio pursuant to Rule 1140-2-.02 (5). On August 7, 2001, during a routine visit, Dr. Richard Hadden observed five (5) pharmacy technicians and one (1) intern working with only one (1) supervising pharmacist and performing tasks proper to pharmacy technicians. A civil penalty of \$1,000 was assessed. Dr. Sheila Mitchell motioned to **accept** the Consent Order; seconded by Dr. Robert Shutt. All were in favor and the motion carried.

DONALD HAMLIN, #1216
P. O. Box 345
Burnside, KY 42519

Ms. Alison Zane, legal counsel for the Board, presented a Consent Order whereas on or about July 21, 2000, Dr. Donald Hamlin pleaded guilty to the charge of Assistance Program Fraud in

excess of ten thousand dollars (\$10,000), a Felony, in Pulaski Circuit Court in Kentucky. The Kentucky Board of Pharmacy revoked Dr. Hamlin's license to engage in the practice of pharmacy for five (5) years as a result of the felony conviction. Dr. Hamlin's license in the State of Tennessee has been revoked and in the event Dr. Hamlin should desire to reactivate his license, he must personally appear before the Board to request reinstatement of his license. Dr. Robert Shutt motioned to **accept** the Consent Order; seconded by Dr. Julie Frazier. All were in favor and the motion carried.

LEGAL REPORT/COMPLAINTS

1. Case No.: L02-PHR-RBS-200100807

The complaint alleges that the pharmacist gave the complainant the wrong medication for conjunctivitis. The complainant was given a tube of topical Gentamicin 15 gm; however the tube said "do not put in eye, inside of nose or mouth". The complainant went back to the pharmacy and got the correct medicine, which was Gentak 3.5 gm. The medication was not administered to the patient.

Previous complaints:

DPH: None

Pharmacy: None

Recommendation: Dismissal

Dr. Reggie Dilliard motioned to **dismiss** the complaint; seconded by Dr. Forrest Parmley. All were in favor and the motion carried.

2. Case No.: L02-PHR-RBS-199901964

This complaint was originally brought before the Board in March, 2000 at which time the Board decided to dismiss the case because of the lack of evidence that there was a misfill. This matter is being re-opened at the Complainant's attorney's request with additional information about the alleged misfill. The additional information is discharge documents from the hospital and a sample from the prescription bottle; discharge documents indicate that the patient did receive 20 pills at 250 mg. It was originally alleged that the prescription was written for Carbidopa/Levodopa 25/100 mg, yet mistakenly filled with 25/250 mg. It is alleged that the patient, who suffers from Parkinson's Disease, took the 25/250 mg pills for approximately three (3) weeks and as a result, experienced involuntary muscle spasms and hallucinations. As a result, the patient was hospitalized

for two (2) days. Before the incident, the patient could walk with the aid of a walker, now the patient cannot walk. The response from the pharmacist responded to the complaint by saying, that, “if [the bottle] contained anything other than Carbidopa/Levodopa, the prescription must have been misfilled”. I presented this case during my legal report in the September, 2002 board meeting. At that time, the board voted to defer this matter until the November, 2002 meeting so that I could check on the status of the pending civil suit. After the September, 2002 board meeting, I found copies of the minutes from the July 25, 26, 2000 board meeting in which this case was presented to the board with the additional information that I have supplied to you and asking the board to reconsider their original action of dismissing the complaint. At the July 25, 26, 2000 board meeting, the board voted to send a Consent Order to the pharmacy with a civil penalty of one thousand dollars (\$1000.00) and a Consent Order to the PIC with a civil penalty of \$500.00. At the Board’s request, I spoke to the attorney for the patient and the attorney informed me that the civil litigation has ended with a settlement where the patient received a sum of money in addition to the payment of Court costs.

Previous complaints:

DPH: 1

Pharmacy: 2

Recommendation: Formal Hearing (Consent Order with a civil penalty of \$250.00).

Dr. Robert Shutt motioned to **reaffirm the former action taken by the Board; assess a civil penalty of \$1,000 to the pharmacy and a \$500 civil penalty to the PIC.** Mrs. Barbara McAndrew seconded the motion. All were in favor and the motion carried.

3. Case No.: L02-PHR-RBS-200208719

The complainant alleges that the pharmacists gave the complainant medication that did not belong to him, but belonged to a patient with the same first name and a similar last name. The complainant realized the error when he returned home and before he ingested any of the medication. The pharmacist admitted that the wrong medication was dispensed to the wrong patient because of the similarity in the patient’s names. The pharmacist has since had an instructional session with the staff about verifying the names and dates of birth of each patient.

Previous complaints:

DPH: None

Pharmacy: None

Recommendation: Letter of Instruction telling the pharmacist that she and her staff must verify patient’s names.

Dr. Robert Shutt motioned to **accept counsel’s recommendation to the PIC;** seconded by Dr. Julie Frazier. All were in favor and the motion carried.

4. Case No.: L00-PHR-RBS-200002464

This is a case involving a non-pharmacist who owned three (3) pharmacies. Previously, the Board voted to have the non-pharmacist submit to an informal conference, the results of which were inconclusive. According to the non-pharmacist's attorney, the non-pharmacist has sold all of her pharmacies. However, there are allegations of many violations committed by the non-pharmacist in closing the pharmacies, namely, that there was a failure to perform an inventory in two (2) of the pharmacies for any of the controlled substances, failure to notify the DEA of the store closings, failure to account for all of the drugs from the closed stores, failure to notify the Board of a change in PIC. The non-pharmacist also admits that persons other than the pharmacists had keys to the pharmacy. The non-pharmacist also admitted that the drug inventory was taken from the three (3) store to another pharmacy and dispersed into the stock of that store. The Respondent is not currently in business as a pharmacy owner.

Recommendation: Dismissal because the Respondent is not a pharmacist and does not currently own a pharmacy.

Dr. Sheila Mitchell motioned to **accept counsel's recommendation**; seconded by Dr. Robert Shutt. All were in favor and the motion carried.

5. Case No.: L02-PHR-RBS-200209406

The pharmacist was disciplined in the State of Louisiana by entering a Consent Order admitting to violating the drug and alcohol abstinence provision of his probation through the Board of Pharmacy. The pharmacist also agreed to revoke his probation and a five (5) year suspension of his license to practice pharmacy in Louisiana commencing August 23, 2000 to August 23, 2005. Lastly, the pharmacist agreed that prior to the reinstatement of his license, he must appear before the Board and satisfy any conditions imposed by the Board. The pharmacist did not notify us of the suspension of his license in Louisiana.

Recommendation: Consent Order suspending the pharmacist's license for five (5) years commencing August 23, 2000 to August 23, 2005 with same conditions about drug and/or alcohol abstinence and about seeking drug and/or alcohol treatment as are in the Louisiana Board of Pharmacy Order. Respondent must personally appear before our Board when he makes his request to reinstate his Tennessee license to practice pharmacy and that one of the terms of his reinstatement is that he must enter the TPRN Advocacy Program in Tennessee.

Dr. Reggie Dilliard motioned to **accept counsel's recommendation**; seconded by Dr. Sheila Mitchell. All were in favor and the motion carried.

6. Case No.: L00-PHR-RBS-200006154

At the last board meeting, I presented this case to the board with the recommendation that

an informal conference be authorized by the board. The board can order civil penalties as a result of an informal conference. Just to refresh the board's recollection in this case, the complaint was initiated through a routine inspection in which the investigator saw that the pharmacist technician was failing to counsel a patient about a drug the patient was taking. Upon questioning, the technician told the investigator that the offer to counsel patients only had to be made for new prescriptions. PIC responded stating that he will explain the rule regarding patient counseling. At the April 11, 2001 meeting, the Board voted to send the pharmacist a Consent Order with a civil penalty against the pharmacy for five hundred dollars (\$500.00) and civil penalty against the pharmacist for one hundred dollars (\$100.00). The pharmacist did not sign the order. It appears that the pharmacist called the Board's prior staff attorney and asked to have the Board reconsider their action for a Consent Order. Then, an August 22, 2002 letter was sent to the pharmacist asking him to write a letter requesting reconsideration. A letter was never received.

Recommendation: Informal Conference

Dr. Reggie Dilliard motioned for an **Informal Conference**; seconded by Dr. Julie Frazier. Dr. Robert Shutt recused himself. The motion carried.

7. Case No.: L99-PHR-RBS-199901237

At the September 25, 2002 Board meeting, the Board voted to send the pharmacist a Consent Order containing the term that before the pharmacist attempted to reactivate or reinstate his license to practice pharmacy, he would personally appear before the Board. The pharmacist's license had expired. After the Board meeting, we were notified that the pharmacist died.

Recommendation: Reconsideration of the Board's previous action and dismiss the complaint.

Dr. Julie Frazier motioned to **accept counsel's recommendation**; seconded by Dr. Sheila Mitchell. All were in favor and the motion carried.

8. Case No.: L00-PHR-RBS-200002471

The complaint alleges that the pharmacist was in violation of the pharmacist/ technician ratio. An inspection revealed that one (1) pharmacist was supervising three (3) technicians and two (2) interns. In response, the pharmacist admitted to the violation, but contended that the violation occurred because he was only out of the pharmacy temporarily. The Board previously voted to send the pharmacist a Consent Order with a civil penalty of five hundred and fifty dollars (\$550.00). I recently received a phone call from the pharmacist about the Consent Order that was sent to him and he stated to me that he could not pay the civil penalty; he is not currently working and he has a sick grandchild. I brought this matter before the Board at the September 25, 2002 board meeting at the Respondent's request. At that time, the Board affirmed its prior decision

of a Consent Order with a five hundred and fifty dollar (\$550.00) civil penalty. As ordered, I conveyed this to the Respondent and he then requested that I bring this matter before the Board once again requesting an informal conference.

Recommendation: Board's discretion

Dr. Reggie Dilliard motioned for an **Informal Conference**; seconded by Dr. Julie Frazier. All were in favor and the motion carried.

9. Case No.: L02-PHR-RBS-200204851

The complainant alleges that his Tussionex prescription was shorted several teaspoons. The complainant went to the pharmacy to bring this matter to the Pharmacy Manager's attention and the complainant claims that he was treated unprofessionally and that he was insulted. The complainant wanted a refund or the balance of the medication. The pharmacist stated that he spoke to the complainant and explained to the complainant that the store policies and procedures were correctly followed, in that the drug name was checked and circled and the pharmacist checked to make certain that the dosage and directions were typed correctly on the bottle. The pharmacist told the complainant that the only way that they could give him additional medication was to have his doctor prescribe it. The pharmacist then tried to contact the physician to see if he would dispense any additional medication. The complainant's physician contacted the pharmacist and told the pharmacist that he would not authorize any additional dispensing of the medication.

Previous complaints:

Dph: None

Pharmacy: None

Recommendation: Dismissal

Dr. Robert Shutt motioned to **dismiss** the complaint; seconded by Dr. Sheila Mitchell. All were in favor and the motion carried.

10. Case No.: L02-PHR-RBS-200105504

The complainant alleges that she went through the pharmacy drive-thru to pick up her prescription for Tylenol 3; however, the pharmacy kept calling the complainant telling her that her prescription was ready to be picked up. This prompted the complainant to look at the bottle she received, which was a prescription for another patient for Phenergan. The complainant also received literature for a Promethazine prescription for yet another patient, with a last name that was similar to the complainant's. The complainant did not consume any of the other patient's medication. The staff pharmacist and the PIC both admitted the error and indicated that they were speaking to their cashiers about verifying names so that the correct patient receives the correct medication.

Previous complaints:

PIC: None

Staff DPH: None

Pharmacy: None

Recommendation: Letter of Warning emphasizing the verification process and patient counseling.

Mrs. Barbara McAndrew motioned to **accept counsel's recommendation for a Letter of Warning**; seconded by Dr. Forrest Parmley. All were in favor and the motion carried.

11. Case No.: L02-PHR-RBS-200209911

The Respondent is a medical equipment company. The complaint alleges that the Respondent attempted to solicit a patient's business; this patient was already using another company's equipment. The patient has an oxygen tank and receives a prescription from her doctor for the oxygen. The Respondent claims that he dropped off the equipment to the patient for a demonstration. The equipment was dropped off at the patient's house with a form of Oxygen Concentrator, which does not require a prescription. The patient tried the new equipment, but then decided to keep her old equipment. The Respondent then picked up the equipment the next day. We do have jurisdiction over the Respondent and the Respondent is currently licensed; however, the Respondent did not violate any of our rules because the form of oxygen used by the Respondent did not require a prescription.

Recommendation: Dismissal

Dr. Sheila Mitchell motioned to **accept counsel's recommendation**; seconded by Dr. Julie Frazier. All were in favor and the motion carried.

12. Case No.: L02-PHR-RBS-200207745

The complainant alleges that he should have received a filled prescription for an antibiotic, but instead, received another patient's Ultracet; both patients had the same first and the same last name, but a different middle initial. Also, it does not appear that the complainant was given any patient counseling. The PIC was unable to locate the patient counseling logs for the complainant and the other patient.

Previous complaints:

DPH: None

Pharmacy: 2 (5/28/02, misfill, letter of warning & 5/01, short Rx, dismiss)

Recommendation: Consent Order with civil penalty of \$200.00 against the pharmacy with a provision to institute a policy for identification of a patient within a time frame established by the Board.

Dr. Reggie Dilliard motioned to **accept counsel's recommendation; giving a time frame of thirty (30) days to implement policy.** Dr. Julie Frazier seconded the motion. All were in favor and the motion carried.

13. Case No.: L02-PHR-RBS-200207835

The complainant has filed two complaints against the PIC. One alleges that the patient attempted to pick up her prescription for ninety (90), forty (40) mg pills of Micardis. Before the patient left the store, the patient realized that the pills were for another patient with a similar last name. The patient then realized that she was not given the prescribed ninety (90) pills; but rather, she was given eighty-two (82) pills. Approximately three (3) months later, the complainant filed another complaint alleging that she picked up her prescription for Claritin for thirty (30), (ten) 10 mg pills and that it only contained twenty-nine (29) and not thirty (30) pills. The PIC responded that the pharmacy technician who gave the complainant her pills thought she was another patient; the pharmacy technician misunderstood the complainant's last name. As a result, the PIC has informed all of the employees to obtain the patient's address or phone number for patient identification. The PIC also stated that the patient was shorted two (2) pills, and the PIC has addressed this error with the other pharmacist. The PIC could not provide an explanation for the shortage of one (1) tablet of Claritin.

Previous complaints:

DPH: None

Pharmacy: Two (2) (11/01, labeling error, LOI; 6/01, refuse to fill, dismissal)

Recommendation: Letter of Warning requesting that the PIC establish a policy for identifying patient's properly, for ensuring patient counseling and for double checking the amount of pills dispensed.

Dr. Reggie Dilliard motioned to **accept counsel's recommendation to the PIC;** seconded by Dr. Julie Frazier. All were in favor and the motion carried.

14. Case No.: L02-PHR-RBS-200208221

The complainant alleges that she gave her name and date of birth as identifiers when she picked up her prescriptions, but she was given the wrong medications. They were new medications for the complainant and she alleges that she was neither given any patient counseling nor was any patient counseling offered to her. The complainant took one (1) of the pills before bed and experienced hallucinations, at which time the complainant realized that she was given the wrong medication. The PIC responded that there were two (2) different women with the exact same name who had prescriptions filled at the same time in the pharmacy, and the complainant was one (1) of the women. Both women also had the same insurance carrier and one (1) of them had a change of address recently. The PIC admits that the complainant did receive the wrong medication, but that they have taken steps to remedy the situation by stressing the importance of obtaining a patient's date of birth to verify that they are receiving the correct prescriptions. Also, the PIC and

the pharmacy technician both claim that he did conduct patient counseling for the complainant.

Previous complaints:

PIC: None

Pharmacy: None

Recommendation: Letter of Instruction given the fact that there is insufficient evidence to determine if patient counseling was done, there are no previous complaints against this PIC and both patients had the same name.

Dr. Sheila Mitchell motioned **to accept counsel's recommendation for a Letter of Instruction to the PIC**; seconded by Dr. Robert Shutt. Dr. Forrest Parmley recused himself. The motion carried.

15. Case No.: L02-PHR-RBS-200209022

The complainant alleges that the pharmacist would not fill his prescriptions because he has a pending workers compensation case. The complainant alleges that the pharmacist lied to him initially by telling him that he could not fill the prescriptions, but in reality, the pharmacist did not want to fill them. The complainant also alleges that the pharmacists told the complainant to "get off of drugs" and implied that he is a drug abuser. The pharmacist replied that he did not want to fill the prescription because he does not fill worker's compensation prescriptions. The pharmacists knew that the complainant was having another pharmacy fill his prescriptions; so, he allowed the other pharmacy to fill the prescription. The pharmacist admits that he told the complainant in some manner that he needed to reevaluate his pain medications since all prior prescriptions were for opiates containing controlled substances. The pharmacist states that he meant it as a sincere form of patient counseling.

Previous complaints:

DPH: None

Pharmacy: None

Recommendation: Dismissal

Dr. Sheila Mitchell motioned to **dismiss** the complaint; seconded by Dr. Robert Shutt. All were in favor and the motion carried.

16. Case No.: L02-PHR-RBS-200209024

The complaint alleges that the pharmacist was observed and recorded on video tape picking up a couple of pills of Glucotrol and Aciphex off of the floor and putting them in his pocket. The pharmacist was confronted about these actions and the pharmacist stated that the pills were the same type of pills he took himself. The subsequent week, the pharmacist resigned citing "personal health issues". Upon investigation, it was

determined that the pharmacist's employers were prompted to record the pharmacist's actions on video tape because of other employee's allegations that the pharmacist was taking small quantities of pills from the facility in which the pharmacist worked. The pharmacist is a diabetic and suffers from GERD and controlled substances abuse is not suspected. The pharmacist responded and admitted that he took the pills off of the floor and put them in his pocket. The pills were not from a prescription, but instead fell on the floor. The pills happened to be the same pills that the pharmacist was taking for his condition, so he picked them up. The pharmacist has taken a two (2) month leave from pharmacy and working elsewhere, but wants to return to pharmacy.

Previous complaints:

DPH: None

Recommendation: Letter of Warning

Dr. Reggie Dilliard motioned to **accept counsel's recommendation**; seconded by Mrs. Barbara McAndrew. All were in favor and the motion carried.

17. Case No.: L02-PHR-RBS-200209211

The complaint alleges that after a compliance inspection of the pharmacy, the investigator observed a violation of the pharmacist to pharmacy technician ratio. At the time of the inspection, the investigator observed a pharmacist on duty with three (3) certified technicians, one (1) uncertified technician and one (1) pharmacy student. The pharmacy technicians who were on duty that day performed various functions, from cashier work to technician work. The pharmacist on duty that day responded that the PIC scheduled two (2) technicians to work as cashiers and two (2) to work as technicians. Two (2) of the technicians working that day were supposed to be working as cashiers only and should not have also performed technician work, but drifted in between technician and cashier work. The pharmacist stated that she and the PIC has already stressed the importance of the employees remaining in their work stations and to only perform their scheduled functions.

Previous complaints:

DPH: None

Pharmacy: (2/91; misfill; dismiss)

Recommendation: Letter of Warning to PIC and Pharmacy District Office

Dr. Julie Frazier motioned to **issue a Consent Order to the pharmacy and assess civil penalties in the amount of \$250**; seconded by Mrs. Barbara McAndrew. All were in favor and the motion carried.

18. Case No.: L02-PHR-RBS-200209960

The complainant alleges that the pharmacist refused to fill a Hydrocodone prescription for her. An investigation was conducted which revealed that the pharmacist received the prescription that was transferred from another pharmacy. The pharmacist stated that she did not fill the prescription because she suspected misuse of pain medication by the complainant, based on a review of the patient's records. Particularly, the pharmacist noticed that the complainant had a prescription for Ultram from another physician that was already filled.

Previous Complaints:

DPH: None

Pharmacy: None

Recommendation: Dismissal

Dr. Julie Farzier motioned to **dismiss** the complaint; seconded by Dr. Reggie Dilliard. All were in favor and the motion carried.

19. Case No.: L02-PHR-RBS-200209431

The complainant alleges that she was supposed to receive a prescription for Adderoll at thirty (30) mg. The complainant alleges that she checked the bottle that she received in the parking lot of the pharmacy and realized that she received the wrong bottle. Hence, none of the wrong medication was consumed by the patient. The complainant brought the incorrect prescription back into the pharmacy and they gave the complainant the correct prescription. The complainant further alleges that this is the third misfill she has experienced in the past one and one-half (1 ½) years. The PIC replied that he did in fact make the misfill by placing twenty (20) mg tablets of Adderoll in the bottle instead of thirty (30) mg tablets. The PIC did offer the patient counseling at the time the prescription was filled. The PIC has also taken measures to prevent this error from happening in the future, such as double checking the original prescription.

Previous complaints:

DPH: None

Pharmacy: None

Recommendation: Letter of Warning

Dr. Sheila Mitchell motioned to **issue a Letter of Instruction**; seconded by Dr. Julie Frazier. All were in favor and the motion carried.

20. Case No.: L02-PHR-RBS-200209244

The complainant alleges that her husband takes Remicade. She alleges that the home nurse was late in bringing the Remicade to their home for her husband to take and that

the drug, Remicade only has stability time of three (3) hours from the time that it is mixed. Although the home nurse brought the drug past its stability time, she administered the drug anyway and as a result the patient could not sit up without assistance. The complainant then called the pharmacist the next day about the time frame in which the Remicade was stable. The pharmacist was under the impression that it was twenty-four (24) hours. There is no allegation or evidence that the pharmacist did not mix the drug improperly or mistakenly inform that home nurse about the stability of the drug. It appears that the home nurse just delivered it late and administered it past the stability time, which in turn, caused the patient to experience ill effects.

Previous complaints:

DPH: None

Pharmacy: None

Recommendation: Dismissal

Dr. Robert Shutt motioned to **accept counsel's recommendation**; seconded by Dr. Forrest Parmley. All were in favor and the motion carried.

21. Case No.: L02-PHR-RBS-200209216

The complainant alleges that he received fifteen (15) instead of thirty (30) pills of Oxycodone for his kidney stone pain. The complainant further alleges that the bottle was too small to hold thirty (30) tablets and there was a number fifteen (15) written on the bottle. The PIC denies the allegations of a misfill. The PIC asserts that it is the pharmacy's policy to triple count all Schedule II Controlled Substances, which is done by the pharmacist and the technician. The pharmacist then initials the number on the label to verify the count in the bottle. An investigator interviewed the other pharmacist on duty that day as well as the pharmacy technician, both of whom substantiated the PIC's version of events. The pharmacist informed the investigator that when the complainant complained, the PIC checked the Schedule II inventory log against a physical count of Oxycodone tablets in the pharmacy and the numbers matched exactly. The investigator further determined that the bottle could hold thirty (30) tablets and the PIC could not explain how the number fifteen (15) got on the bottle.

Previous complaints:

DPH: None

Pharmacy: One (3/01, shorted pills)

Recommendation: Dismissal

Dr. Sheila Mitchell motioned to **accept counsel's recommendation**; seconded by Dr. Robert Shutt. All were in favor and the motion carried.

22. Case No.: L02-PHR-RBS-200209116

The complainant alleges that while frequenting a pharmacy to pick up his own prescription, he observed a pharmacy technician drop pills on the floor of the pharmacy and then pick them up and place them in a prescription container to be dispensed. The complainant relayed his observations to the pharmacist who was on duty at the time and the pharmacist told the complainant that she did not see that occur. The complainant then turned to the pharmacy technician and told her to tell the pharmacist what happened and the technician turned her back to the complainant and refused to make any remarks. The technician replied that she did drop pills on the floor, but she then threw them away. She also states that the complainant accused her of putting the dropped pills in another patient's bottle, when the pharmacy did not have the drug that the complainant needed in stock. Neither the PIC, nor the pharmacist on duty that day have been able to determine what happened to the pills.

Previous complaints:

DPH: One (1988, chemical dependency, 5 yrs. Probation)

Pharmacy: Two (1984, shorted pills, dismissed; 2/97, patient counseling, dismissed)

Recommendation: Letter of Instruction as to what should happen if pills contaminated.

Dr. Forrest Parmley motioned to **accept counsel's recommendation**; seconded by Dr. Robert Shutt. All were in favor and the motion carried.

23. Case No.: L02-PHR-RBS-200210549

The complainant alleges that the pharmacy overcharges for prescription drugs that they supply to nursing homes. The complainant lists many drugs and their prices. As an example, the complainant alleges that the pharmacy charged \$8.26 for a bottle of mineral oil and then nine (9) months later, they charged \$2.26. The pharmacy charged \$30.30 for thirty (30) one hundred and eighty (180) mg of Verapamil and then several months later, they charged her \$41.90 for two hundred and forty (240) mg pills. There is no violation of our applicable statute or rules.

Previous complaints:

Pharmacy: None

Recommendation: Dismissal

Dr. Julie Frazier motioned to **accept counsel's recommendation**; seconded by Dr. Robert Shutt. All were in favor and the motion carried.

24. Case No.: L02-PHR-RBS-200210545

The complaint alleges that the pharmacist took controlled substances from the pharmacy in which he worked, for his own personal use. The pharmacist admitted that he took “several” four (4) ounce bottles of a hydrocodone cough syrup for his personal use and without a prescription.

Previous complaints:

DPH: 1980, failure to account for large amounts of controlled substances, \$2,500.00 civil penalty;

1990, unauthorized refills, \$4,000.00 civil penalty and five (5) years probation;

1994, violation of probation for early refills of controlled substances, license revoked for three (3) years;

1997, license returned.

Recommendation: Formal Hearing (authorization to offer him to sign a Consent Order revoking his license).

Dr. Sheila Mitchell motioned to **accept counsel’s recommendation**; seconded by Dr. Barbara McAndrew. All were in favor and the motion carried.

25. Case No.: L02-PHR-RBS-200210248

The complainant alleges that she did not receive her prescription for Uroblue and instead, she received Lovastatin. The complainant called the pharmacy when she returned home when she realized that she was given the wrong medication. The complainant did not consume any of the incorrect medication. The pharmacist told her to come back in and he would give her the right medication. The complainant told the pharmacist that “it was not convenient”, so the complainant never obtained the correct medication and her condition worsened. Eventually, the complainant was forced to obtain medical attention.

Previous complaints:

DPH: None

Recommendation: Letter of Warning with instructions to establish a store policy to prevent future mistakes of this nature, where patients are given the incorrect medications.

Dr. Sheila Mitchell motioned to **accept counsel’s recommendation**; seconded by Dr. Julie Frazier. All were in favor and the motion carried.

26. Case No.: L02-PHR-RBS-200210245

The complainant alleges that the PIC refused to fill her husband’s prescription for Percocet because the pharmacist called the prescription, “bogus” and could not verify the prescription because the doctor was not “on call”. The pharmacist admits that she felt

obliged to check on the validity of this prescription because there has been a large amount of false prescriptions written for pain killers on the same prescription pad submitted by the complainant. The pharmacist called the hospital where the doctor worked and the hospital said they had no record of him or the complainant's husband; the pharmacist then called the doctor's office which said he was not "on call". The then found an old prescription written by this doctor and verified his signature. The pharmacist did not call the prescription "bogus"; but, unfortunately, a member of her staff did before the pharmacist could speak to the complainant.

Previous complaints: None

Pharmacy: None

Recommendation: Dismissal with a suggestion in the dismissal letter that she institute a policy for checking questionable prescriptions and counsel staff about how to handle this situation with customers.

Dr. Reggie Dilliard motioned to **accept counsel's recommendation**; seconded by Dr. Robert Shutt. All were in favor and the motion carried.

27. Case No.: L02-PHR-RBS-200210244

The complainant alleges that the pharmacist refused to fill her prescription because of her patient profile. The complainant claims that she has had prior prescriptions of the same medication filled at this pharmacy without incident. The complainant further alleges that the pharmacist would not give a reason for her refusal, other than, she has the right to refuse to fill a narcotics prescription. The pharmacist told the pharmacy manager that she would not fill the prescription because it was a phone prescription and needed verification from the doctor. The pharmacist replied that she wanted to verify the prescription because the person who called it in (twice), did not identify himself and hung up. The pharmacist then called the doctor's office and no one answered. The pharmacist is also familiar with that particular doctor's method of prescription writing and found this prescription to be unlike his prior practices. During the second phone call, the unidentified person who called the prescription in said that he would have the prescription filled elsewhere.

Previous complaints:

DPH: None

Pharmacy: None

Recommendation: Dismissal

Dr. Robert Shutt motioned to **accept counsel's recommendation**; seconded by Dr. Julie Frazier. All were in favor and the motion carried.

28. Case No.: L02-PHR-RBS-200210094

The complainant alleges that the pharmacist shorted him five (5) pills in his one hundred and twenty (120) count prescription of Oxycodone. The complainant also alleges that he was treated badly by the pharmacist and the pharmacy staff and that he is afraid to go back to the pharmacy. The pharmacist stated that when the complainant called the pharmacy to say that he was shorted on his prescription, the pharmacist immediately conducted an inventory of their medications, which did not reveal that there was a shortage of medication. After the pharmacist informed the complainant of the inventory count, the complainant began cursing and threatening the pharmacist.

Previous complaints:

DPH: None

Pharmacy: 9/97, misfill, dismissal

Recommendation: Dismissal

Dr. Robert Shutt motioned to **accept counsel's recommendation**; seconded by Dr. Reggie Dilliard. All were in favor and the motion carried.

29. Complaint #200211115

A pharmacist was convicted of a crime and falsified his application. The pharmacist license was suspended in another state and was licensed by reciprocity in Tennessee. The Tennessee license is current. The pharmacist did not notify the Board of his felony charge in December, 2000.

RECOMMENDATION: Formal Hearing or Consent Order for Revocation.

Dr. Sheila Mitchell motioned to **accept counsel's recommendation**; seconded by Dr. Julie Frazier. All were in favor and the motion carried.

DIRECTOR'S REPORT

AD HOC RULES COMMITTEE - FOREIGN GRADUATES

Director Kendall Lynch discussed that the board should consider the following changes to the rules relevant to Foreign Graduates.

1. Drop the NAPLEX requirement and designate the FPGEC as the sole requirement for a license.
2. State that FPGEC certified applicants must become licensed within twelve (12) months of the date on their certification or recertify.

3. Include the Internship requirements in the Rule.
4. Include the MPJE requirement in the Rule.
5. Address reciprocity requirements, for example, must have passed the FPGEC.

These items have been referred to the Ad Hoc Rules Committee for consideration.

DEA'S STATEMENT OF GUIDELINES FOR EMERGENCY KITS IN LONG TERM CARE FACILITIES

The Board reviewed the following policy relevant to DEA's Guidelines for Emergency Kits in Long Term Care Facilities (LTCF).

LTCF GUIDELINES FOR EMERGENCY KITS

With recognition of the DEA's statement of Guidelines for Emergency Kits in Long Term Care Facilities (LTCF), Appendix R, the following policy is adopted.

1. SOURCE OF SUPPLY:

All controlled substances contained in the emergency kit must be supplied by the duly licensed and currently DEA registered provider pharmacy designated by the LTCF.

2. SECURITY SAFEGUARDS, ACCOUNTABILITY AND RECORDKEEPING, and ADMINISTRATION OF CONTROLLED SUBSTANCES:

- The access, storage, and administration of the controlled substances contained in the emergency kit must meet the requirements of Tennessee Board of Pharmacy Regulation 1140-4-.09
- Controlled Substance, Schedule II drugs in the emergency kit must be stored in a cabinet or other structure that provides a double locked secure system.
- The contents of the emergency kit is specifically limited to the following:
 - (a) A maximum of two (2) dosage units each of any two CS Schedule-II Injectable Narcotic Analgesic.
 - (b) A maximum of two (2) dosage units each of any two CS Schedule II Immediate Acting Oral Narcotic Analgesic.

- (c) A maximum of four (4) dosage units each of any two (2) CS Schedule III, IV, or V Oral Narcotic Analgesic.
- (d) A maximum of two (2) dosage units each of any two CS Injectable Anti-Seizure medication.

Alan B. Corley, President

Kendall M. Lynch, Director

Under #2, SECURITY, SAFEGUARDS, etc., the second sentence should read, Controlled Substance, Schedule II drugs in the emergency kit must be stored in a cabinet or other structure that provides a double locked “secure” system instead of “sure”.

Dr. Julie Frazier motioned to **accept the policy**, seconded by Dr. Sheila Mitchell. All were in favor and the motion carried.

NATIONAL ASSOCIATION OF BOARDS OF PHARMACY
EDUCATION WORKSHOP: *State Regulatory Policy: Responding to Changes in the Oversight of Opioid Addiction Treatment*

The National Association of Boards of Pharmacy, The Federation of State Medical Boards and the Center for Substance Abuse Treatment will sponsor a workshop relevant to the U. S. Food and Drug Administration’s approval of buprenorphine and buprenorphine/naloxone for the treatment of opioid addiction by individual physicians in the office setting. This new treatment modality, authorized under the Drug Addiction Treatment Act of 2000 (DATA), allows qualified physicians to prescribe and pharmacist to dispense FDA approved Schedule III-V narcotics for addiction treatment. NABP will reimburse attendees up to \$900 for travel, lodging and meal expenses. Director Lynch stated a board member and senior staff member will attend.

PHARMACY INTERNSHIP – RULE 1140-1-.04

Director Kendall suggested the following changes to Rule 1140-1-.04 relevant to the pharmacy internship. Deletions are characterized by a ~~striketthrough~~, additions are in

bold. Amend Rule 1140-1-.04 to read as follows:

1. An applicant for an initial pharmacist license by examination ~~must show, on affidavit forms prescribed by the board,~~ **shall submit evidence that the applicant has satisfactorily completed not less than that the applicant has acquired a minimum of** one thousand five hundred (1,500) hours of pharmacy internship (practical pharmacy experience) under the instruction of a pharmacist in good standing, subject to all of the following conditions.
 - (a) The one thousand five hundred (1,500) hours must be acquired after enrollment in **the first professional year in** a recognized college or school of pharmacy. **The** one thousand ~~one~~ **five** hundred ~~(1,100)~~ **(1,500)** hours may be acquired in **recognized college or school of** pharmacy programs or ~~demonstration projects structured by the college or school of pharmacy,~~ **programs approved by the board.**
 - (b) Pharmacy Internship may be acquired in another state, provided that the preceptor's qualifications are certified by the appropriate authorities of such state.

~~Four hundred (400) of these hours may be acquired in non-traditional pharmacy internship programs which have received prior approval of the board.~~
 - (c) Foreign pharmacy graduates shall complete five hundred (500) hours of pharmacy internship in Tennessee within a period of six (6) consecutive months.

These suggestions have been referred to the Ad Hoc Rules Committee for consideration.

ADJOURNMENT

Dr. Alan Corley adjourned the Board of Pharmacy meeting on Tuesday, November 19, 2002, at 4:30 p.m. CST

RECONVENED

The Board of Pharmacy reconvened on Wednesday, November 20, 2002, at 9:10 a.m. CST in Room 160 of the Davy Crockett Tower. President Alan Corley called the meeting to order. All members were present.

CURTIS WITT, DPH
5563 North Street
Bartlett, TN 38138

Dr. Curtis Witt appeared before the Board to request a waiver of Rule 1140-1-.07 (3) (c)(3) relevant to the NAPLEX examination. In November, 2001, a formal request was presented before the Board for a waiver of the NAPLEX but the request was denied.

Dr. Witt graduated from the University of Mississippi in May, 1982 and obtained a “D” license. This license was issued to graduates who made application and paid the appropriate fees but did not take the national exam. The license only allowed Dr. Witt to practice pharmacy in Mississippi and is not transferable to other states. Dr. Witt became licensed in Tennessee on September 9, 1982, but let the Tennessee license expire due to working in Mississippi. In the late 80’s, or early 90’s, Dr. Witt stated he became addicted to drugs and in June, 1991, obtained the advocacy of the Mississippi Association of Recovering Pharmacists. In 2000, Dr. Witt stated he neglected to report to the Mississippi Board a prescription for Ultram and subsequently voluntarily surrendered his license. Dr. Witt entered into a five (5) year contract with MARP on May 4, 2000 and is compliant with the Mississippi contract.

Dr. Reggie Dilliard stated for the record that neither Dr. Curtis Witt nor Dr. Reggie Dilliard have never met or worked together, as both pharmacists live in Bartlett, Tennessee.

After Board discussion, Dr. Robert Shutt motioned to **grant the waiver for the NAPLEX and to obtain advocacy with TPRN with the terms and conditions of an impaired pharmacist license to mirror the contract with MARP.**

1. Respondent does hereby agree to the reinstatement of license number **#5928** with the following probationary conditions. Said probation shall remain in effect for a

period of five (5) years:

(a) The Respondent shall completely abstain from the consumption of alcohol and controlled substances, except as prescribed by a duly licensed practitioner for a legitimate purpose.

(b) The Respondent shall consume no medications unless they are prescribed by his primary physician, Ken Croman, MD. The Respondent shall immediately notify the Board office of the name of his primary physician each time the Respondent changes primary physicians.

(c) The Respondent shall destroy any unused controlled substances prescribed under the provisions of subsection (b) no later than thirty (30) days following the completion of the prescribed course of treatment.

(d) The Respondent shall report to the Board, in writing, the ingestion of any and all legend drugs or controlled substances (a copy of the prescription will satisfy the requirement).

(e) The Respondent shall be subject to perpetual, random sampling of urine, blood or bodily tissues, at his own expense, by agents of the Board.

(f) Should any sampling indicate the presence of drugs for which the Respondent does not have a valid prescription, a show cause order will be issued to determine why the probation and the Respondent's license should not be immediately revoked.

(g) The Respondent shall comply with all the terms and conditions of the extended aftercare contract he entered into with Tennessee Pharmacist Recovery Network. Respondent shall return a copy of said contract with this Consent Order to the

Board office.

(h) The Respondent will not serve as pharmacist in charge for a period of three (3) years, however, after a period of two (2) years, may petition the Board for a modification of this Order to remove the restrictions upon a show of good cause.

(i) If the license has been inactive, delinquent, suspended or revoked:

③ More than five (5) consecutive years, the pharmacist shall:

1. Provide written notice requesting an active license.
2. Satisfy all past due continuing pharmaceutical education.
3. Successfully complete the jurisprudence examination.
4. Pay all cumulative license renewal fees and any applicable penalties.
5. Complete a period of pharmacy internship of three hundred (320) hours within one hundred eighty (180) consecutive days.

Dr. Julie Frazier seconded the motion. Dr. Forrest Parmley recused himself. The motion carried.

DENNIS WILSON, DPH
VICE PRESIDENT - OPERATIONS
EXCELLERX
2525 Horizon Lake Drive #101
Memphis, TN 38133

Dr. Dennis Wilson appeared before the Board to discuss the use of the Automatic Drug dispensing System (ADDS). ExcelleRx has a distribution center in Memphis, Tennessee, which distributes medications to hospice patients all over the country. Methodist Alliance has asked ExcelleRx to assist with emergency kits for hospice. Mr. Ed Brezinski with Telepharmacy Solutions represents an ADDS to be utilized in this procedure. The director at Methodist Alliance would like to have a unit installed in his office so that his nurse would have access to the meds for dispensing.

This type of equipment is not addressed in the Tennessee Board of Pharmacy rules or laws. Dr. Wilson will provide a listing of facilities currently utilizing this system. Dr. Alan Corley stated director Kendall Lynch and legal counsel Alison Zane will further investigate. Director Lynch will schedule an on-visit site with Dr. Bill Falbe for Dr. Julie Frazier to observe the ADDS.

DAN MUELLER, DPH
PHARM-CARE, INC.
3024 Goodman Road
Southaven, MS 38672

Dr. Dan Mueller appeared before the board to discuss the repackaging of medications obtained from another pharmacy into patient friendly packaging. The Board allowed Dr. Mueller to continue with the process until the November, 2002 board meeting. Dr. Alan Corley stated Ms. Alison Zane, legal counsel, is to review for compliance with Tennessee rules and laws. Ms. Zane stated the Board could open a complaint and refer to the Mississippi Board of Pharmacy to issue a Cease and Desist letter to patients in Tennessee. The matter is to be deferred until the January, 2003 board meeting due to the patients not receiving their prescriptions.

Dr. Julie Frazier motioned to **issue a Cease and Desist**; seconded by Dr. Reggie Dilliard. Dr. Sheila Mitchell recused from voting. The motion carried.

MARTHA BRYANT, DPH
3500 Wedgewood Drive
Morristown, TN 37814

Dr. Martha Bryant appeared before the Board to request reinstatement of her pharmacist license, along with advocates, Dr. Edwin Bills with TRPN and Mr. Eric Amburgey with Cornerstone. Director Kendall Lynch stated in June, 2002, he received a telephone call from Dr. Bryant revealing to being chemically dependent. A Consent Order was executed for the surrender of her pharmacist license. Mr. Eric Amburgey stated Dr. Bryant was active in the aftercare program.

and has not missed any meetings. Dr. Edwin Bills with TPRN stated Dr. Bryant was compliant with her contract and has ten days left on the 90/90 meetings. After board discussion, Dr. Sheila Mitchell motioned to:

1. Respondent does hereby agree to the reinstatement of license number #1461 with the following probationary conditions. Said probation shall remain in effect for a period of five (5) years:

(a) The Respondent shall completely abstain from the consumption of alcohol and controlled substances, except as prescribed by a duly licensed practitioner for a legitimate purpose.

(b) The Respondent shall consume no medications unless they are prescribed by his primary physician, Emmitt Manley, MD. The Respondent shall immediately notify the Board office of the name of his primary physician each time the Respondent changes primary physicians.

(c) The Respondent shall destroy any unused controlled substances prescribed under the provisions of subsection (b) no later than thirty (30) days following the completion of the prescribed course of treatment.

(d) The Respondent shall report to the Board, in writing, the ingestion of any and all legend drugs or controlled substances (a copy of the prescription will satisfy the requirement).

(e) The Respondent shall be subject to perpetual, random sampling of urine, blood or bodily tissues, at his own expense, by agents of the Board.

(f) Should any sampling indicate the presence of drugs for which the Respondent does not have a valid prescription, a show cause order will be issued to determine

why the probation and the Respondent's license should not be immediately revoked.

(g) The Respondent shall comply with all the terms and conditions of the extended aftercare contract he entered into with Tennessee Pharmacist Recovery Network. Respondent shall return a copy of said contract with this Consent Order to the Board office.

(h) The Respondent will not serve as pharmacist in charge for a period of three (3) years, however, after a period of two (2) years, may petition the Board for a modification of this Order to remove the restrictions upon a show of good cause.

(i) If the license has been inactive, delinquent, suspended or revoked:

①Less than one (1) year, the pharmacist shall:

1. Provide written notice requesting an active license.
2. Satisfy all past due continuing pharmaceutical education.
3. Pay all cumulative license renewal fees and any applicable penalties.

Dr. Robert Shutt seconded the motion. All were in favor and the motion carried.

JAMES CATRON , DPH
3341 Spring Creek Drive
Morristown, TN 37814

Dr. James Catron appeared before the Board to request reinstatement of his pharmacist license.

Mr. Eric Amburgey with Cornerstone and Dr. Kirk Jones with TPRN advocated on his behalf.

Director Kendall Lynch stated in March 2002, he had received information from the Director of the Kentucky Board of Pharmacy that Dr. Catron's license had been suspended due to chemical dependency. Dr. Catron was released from Cornerstone on May 26, 2002. Dr. Catron stated he has completed his 90/90, attended Caduceus meeting but was not as compliant with his aftercare program as he should be. Dr. Catron met with the Kentucky Pharmacists Recovery Network on September 9, 2002 and his Kentucky license was reinstated on October 9, 2002. Mr. Amburgey

stated Dr. Catron was compliant with the recommendations of Cornerstone. Dr. Kirk Jones with TRPN stated Dr. Catron was compliant with his contract. After board discussion, Dr. Reggie Dilliard motioned:

1. Respondent does hereby agree to the reinstatement of license number #10999 with the following probationary conditions. Said probation shall remain in effect for a period of five (5) years:

(a) The Respondent shall completely abstain from the consumption of alcohol and controlled substances, except as prescribed by a duly licensed practitioner for a legitimate purpose.

(b) The Respondent shall consume no medications unless they are prescribed by his primary physician, Eustochia Pratt, MD. The Respondent shall immediately notify the Board office of the name of his primary physician each time the Respondent changes primary physicians.

(c) The Respondent shall destroy any unused controlled substances prescribed under the provisions of subsection (b) no later than thirty (30) days following the completion of the prescribed course of treatment.

(d) The Respondent shall report to the Board, in writing, the ingestion of any and all legend drugs or controlled substances (a copy of the prescription will satisfy the requirement).

(e) The Respondent shall be subject to perpetual, random sampling of urine, blood or bodily tissues, at his own expense, by agents of the Board.

(f) Should any sampling indicate the presence of drugs for which the Respondent does not have a valid prescription, a show cause order will be issued to determine

why the probation and the Respondent's license should not be immediately revoked.

(g) The Respondent shall comply with all the terms and conditions of the extended aftercare contract he entered into with Tennessee Pharmacist Recovery Network.

Respondent shall return a copy of said contract with this Consent Order to the Board office.

(h) The Respondent will not serve as pharmacist in charge for a period of three (3) years, however, after a period of two (2) years, may petition the Board for a modification of this Order to remove the restrictions upon a show of good cause.

Dr. Julie Frazier seconded the motion. All were in favor and the motion carried.

CHARLES MURPHY, DPH
505 Swan Pond Circle
Harriman, TN 37748

Dr. Charles Murphy appeared before the Board along with advocate, Dr. Kenny Archer to request the reinstatement of his pharmacist license. Director Kendall Lynch stated in August, 2002, the board office received information from a source whereas Dr. Murphy refused to submit to a urine screen. Dr. Murphy stated he became addicted to hydrocodone following an accident he had in 1999 and continued use until August, 2001. Dr. Murphy contacted Director Lynch and surrendered his license in October 2002. Dr. Murphy signed a contract with TRPN in July, 2002 and has the advocacy of the committee. Dr. Kenny Archer stated Dr. Murphy has been compliant with his contract and is attending meetings and Caduceus. Dr. Murphy has completed the 90/90 meetings. After board discussion, Dr. Julie Frazier motioned:

1. Respondent does hereby agree to the reinstatement of license number **#7764** with the following probationary conditions. Said probation shall remain in effect for a period of five (5) years:

(a) The Respondent shall completely abstain from the consumption of

alcohol and controlled substances, except as prescribed by a duly licensed practitioner for a legitimate purpose.

(b) The Respondent shall consume no medications unless they are prescribed by his primary physician, Randy Denton, MD. The Respondent shall immediately notify the Board office of the name of his primary physician each time the Respondent changes primary physicians.

(c) The Respondent shall destroy any unused controlled substances prescribed under the provisions of subsection (b) no later than thirty (30) days following the completion of the prescribed course of treatment.

(d) The Respondent shall report to the Board, in writing, the ingestion of any and all legend drugs or controlled substances (a copy of the prescription will satisfy the requirement).

(e) The Respondent shall be subject to perpetual, random sampling of urine, blood or bodily tissues, at his own expense, by agents of the Board.

(f) Should any sampling indicate the presence of drugs for which the Respondent does not have a valid prescription, a show cause order will be issued to determine why the probation and the Respondent's license should not be immediately revoked.

(g) The Respondent shall comply with all the terms and conditions of the extended aftercare contract he entered into with Tennessee Pharmacist Recovery Network. Respondent shall return a copy of said contract with this Consent Order to the Board office.

(h) The Respondent will not serve as pharmacist in charge for a period of three (3) years, however, after a period of two (2) years, may petition the Board for a modification of this Order to remove the restrictions upon a show of good cause.

Dr. Julie Frazier seconded the motion. All were in favor and the motion carried.

MUKESHKUMAR PATEL
6041 Port Anadarko Trail
Hermitage, TN 37076

Mr. Mukeshkumar Patel personally appeared to seek the Board's decision regarding whether a waiver of Rule 1140-1-.05 (4) relevant to the Test of Spoken English (TSE), could be granted.

Mr. Patel has not been able to obtain a score of "50" on the exam. At the September 24 – 25, 2002 board meeting, Mr. Patel requested consideration of this Rule but the Board tabled the request. At that time, legal counsel, Ms. Alison Zane, stated under the Rule, the word "**shall**" is mandatory language and is to be complied with by the requirement. **The Board is not able to grant the waiver request due to the language stated in the Rule.**

REV. JAMES ANDREW SKELTON, DPH
4895 Highway 64 E
Wartrace, TN 37183

Rev. Andy Skelton appeared before the Board to request a modification of his consent order relevant to the probationary period. Director Kendall Lynch advised the Board that in September, 1999, the board reinstated Dr. Skelton's license with a period of probation for five (5) years. Dr. Skelton's DEA registration was not reinstated but he was able to gain employment at Consolidated Mail Order Pharmacy (CMOPS). CMOPS is now being outsourced to a staffing agency and their provision will not allow them to hire pharmacists whose license is on probation. Dr. Reggie Dilliard motioned to **remove the probation from the license**; seconded by Dr.

Robert Shutt. All were in favor and the motion carried.

BOARD OF PHARMACY MEETING
FORMAL HEARING - BILLY R. COLLINS, DPH

The Board of Pharmacy has scheduled a formal hearing for pharmacist, Billy R. Collins, on Thursday, December 19, 2002 at 8:00 a.m., CST in Room 160 of the Davy Crockett Tower,

Nashville, Tennessee.

ADJOURNMENT

Dr. Alan Corley asked for a motion to adjourn the Board of Pharmacy meeting on Wednesday, November 20, 2002. at 3:30 p.m. CST. Dr. Sheila Mitchell motioned to adjourn; seconded by Dr. Julie Frazier. All were in favor and the motion carried.

Respectfully submitted,

Alan Corley, President

Kendall M. Lynch, Director